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Mercantile Summary.

DECISIONS IN COMMERCIAL LAW

MEARS. v. CALLENDER.—One of the most important questions in landlord and tenant law is the question, on the determination or expiration of a tenant's lease, of what are and what are not fixtures—what the tenant is and what he is not entitled to remove. In the present case, a landlord in 1887 demised a farm to defendant for a term expiring in 1901. The lease provided that in the last year the landlord might enter and sow certain seeds, and that the tenant should also leave gratis for the landlord, "all the roots remaining unconsumed in the ground, and also all improvements made by the tenant, and all cultivations, dressings and manures, in consideration of no claim being made by the landlord for similar matters on the tenant now entering." It was also provided that the tenant might, at his own cost, convert into orchard so much of certain meadow land as he thought proper. Shortly after the tenancy commenced, the defendant turned part of the meadow land into an orchard in which, in 1901, were over 1,200 trees (apple pear, plum and cherry), in good bearing condition, and, though not capable of removal, worth some hundreds of pounds to an incoming tenant. The defendant also erected ten glass-houses, one of which had concrete sides, its glass span-roof resting on the sides, and capable of removal without damaging the walls. In the case of the other glass-houses the glass span-roofs were supported by and nailed to wide sills which in turn were nailed to and supported by wooden piles driven into the ground. In these houses the defendant (the tenant), grew grapes, peaches, nectarines, tomatoes, and strawberries, which he sold in Reading and Covent Garden, carrying on the trade of a market gardener, with his landlord's consent. On the expiration of the tenancy in the present year, the tenant claimed the right to remove the fruit trees he had planted, and also to remove the glass-houses he had constructed. It was held that although at common law the tenant could not cut down or remove the orchard trees, yet as the trees were planted with the landlord's consent, the tenant was entitled to compensation for the same. And further, that at common law the tenant was not precluded from removing the glass-houses; and that, as the glass-houses were erected without the landlord's consent, the tenant was precluded from obtaining compensation for them, therefore the tenant should be allowed to remove them. If the glass-roofs had been firmly and securely attached to the concrete sides of the houses, they undoubtedly would have been considered fixtures, and the tenant would not have been allowed to remove them.

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